Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/621,959	SILVA-CRAIG ET AL.
	Examiner	Art Unit
	Phuong-Thao Cao	2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *37-57* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *37-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to Application filed on 07/17/2003.

2.   This Application is a DIV of Application 09/681,471 filed on 04/13/2001.

3.   Claims 37-57 are pending.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 43-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothschild et

al. (Publication No US 2002/0019751).

       As to claim 43, Rothschild et al. teach:

"A method for installing medical data from a first data source to a second data source" (see

[0104], [0109], and [0110]), said method comprising:

"storing data remotely from a first data source to a remote data store" (see [0109] and [0110] wherein local image workstation is equivalent to Applicant's "first data source" and central data management system is equivalent to Applicant's "remote data store");

"provide access to a second data source" (see [0141] and [0174] wherein the remote image viewing system or remote storing system is equivalent to Applicant's "second data source", and the disclosure of Internet connection provides access as illustrated in Applicant's claim language);

"transferring said medical data from said remote data store to said second data source" (see e.g., [0110] and [0128] disclose the transmission of electronic records from central data management system to remote image viewing system, wherein electronic records are equivalent to Applicant's "medical data", central data management system is equivalent to Applicant's "remote data store", and remote image viewing system is equivalent to Applicant's "second data source", as illustrated in Applicant's claim language); and

"storing said medical data at said second data source" (see [0139] wherein remote image viewing system is equivalent to Applicant's "second data source", and the disclosure of a image database implies the storing of medical data as illustrated in Applicant's claim language; also see [0132] for the availability of images for reviewing later, which implies that images must be stored; also see [0173] and [0174]).

As to claim 44, this claim is rejected based on arguments given above for rejected claim 43 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said transferring step further comprises transferring said medical data from a directory representative of said first data source at said remote data store to said second data source" (see [0109], [0110], [0131, [0132] and [0139] wherein local image workstation is equivalent to Applicant's "first data source", central data management system is equivalent to Applicant's "remote data store", remote image viewing system is equivalent to Applicant's "second data source", and the disclosure of transferring images of a patient to the respective radiologist or referring physician as well as the ability to configure the patent image database as disclosed implies that data must be transferred from a directory representative of first data source at the remote data store as illustrated in Applicant's claim language).

As to claim 45, this claim is rejected based on arguments given above for rejected claim 43 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said transferring step further comprises transferring files of medical data from said remote data store to said second data store" (see [0128] wherein central data management system is equivalent to Applicant's "remote data store", remote image viewing system is equivalent to Applicant's "second data store", and pushing images is equivalent to Applicant's

"transferring files of medical data" since images must be stored and transferred as files; also see [0193]).

As to claim 46, this claim is rejected based on arguments given above for rejected claim 43 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said transferring step further comprises transferring the entire contents of said first data source from said remote data store to said second data source" (see [0173], [0174] and [0121] wherein local image workstation is equivalent to Applicant's "first data source", central storage system is equivalent to Applicant's "remote data store", remote storing system is equivalent to Applicant's "second data source", and the disclosure of redundant, physically separate locations of image storage implies the transferring the entire contents as illustrated in Applicant's claim language).

As to claim 47, this claim is rejected based on arguments given above for rejected claim 43 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said transferring step further comprises verifying said transferring of medical data from said remote data store to said second data source" (see [0178] wherein information about transmission and receipt is equivalent to Applicant's "verifying said transferring of medical data..."; also see [0177] and [0192]).

As to claim 48, this claim is rejected based on arguments given above for rejected claim 44 and is similarly rejected including the following:

Rothschild et al. teach:

"step of authenticating access to said remote data store" (see [0110] and [0131] wherein central data management system is equivalent to Applicant's "remote data store" and the disclosure of secure data access by authorized individuals is equivalent to Applicant's "authenticating access").

As to claim 49, this claim is rejected based on arguments given above for rejected claim 44 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said transferring step occurs after a definable interval" (see [0193] wherein delivery process is equivalent to Applicant's "transferring step" and the disclosure of repeating the process implies the inclusion of "definable interval" as illustrated in Applicant's claim language; also see [0187] wherein data requester request the transferring of data).

As to claim 50, this claim is rejected based on arguments given above for rejected claim 49 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said definable interval comprises a timed interval" (see [0128], [0187] and [0197]).

As to claim 51, this claim is rejected based on arguments given above for rejected claim 49 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said definable interval comprises an event-based interval" (see [0185], [0186], [0188], and [0197])

As to claim 52, this claim is rejected based on arguments given above for rejected claim 49 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein said definable interval comprises a manual interval" (see [0177] wherein the disclosure that customer is notified so appropriate actions can be taken to assure a quick delivery implies the inclusion of manual interval as illustrated in Applicant's claim language).

As to claim 53, Rothschild et al. teach:

"A remote data retrieval system" (see [0102]), said system comprising:

"a centralized remote data store for storing medical data, the centralized remote data store storing data from a first data source" (see [0109], [0110] and [0174] wherein central data management system is equivalent to Applicant's "centralized remote data store", and local image workstation is equivalent to Applicant's "first data source");

"a second data source providing medical data" (see [0110] wherein remote image viewing system is equivalent to Applicant's second data source"); and

"a status monitor for controlling a transfer of the medical data from the centralized

remote data store to the second data source" (see e.g., [0184] and [0185] disclose a connection

status monitor that control the delivery or transferring of medical data from central data

management system to local or remote workstation wherein central data management system is

equivalent to Applicant's "centralized remote data store", and local or remote workstation is

equivalent to Applicant's "second data source").

As to claim 54, this claim is rejected based on arguments given above for rejected claim

53 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein the first data source is equal to the second data source" (see [0173], [0174] and

[0121] wherein local image workstation is equivalent to Applicant's "first data source", central

storage system is equivalent to Applicant's "remote data store", remote storing system is

equivalent to Applicant's "second data source", and the disclosure of redundant, physically

separate locations where the images are store implies the equality of those data sources as

illustrated in Applicant's claim language).

As to claim 55, this claim is rejected based on arguments given above for rejected claim

53 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein the status monitor is triggers a restoration of medical data from the centralized

remote data store to the second data source" (see e.g., [0188] discloses the connection status

monitor signals IP notifier/data requestor to request queued data which means triggering the

transferring of data as illustrated in Applicant's claim language).

As to claim 56, this claim is rejected based on arguments given above for rejected claim

53 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein medical data is transferred to the second data source in response to an error"

(see [0193], [0194] and [0184] wherein delivery failure is equivalent to Applicant's "error",

remote image viewing system is equivalent to Applicant's "second data source", and data is

transferred to remote workstation until there is a successful delivery, as illustrated in Applicant's

claim language).

As to claim 57, this claim is rejected based on arguments given above for rejected claim

53 and is similarly rejected including the following:

Rothschild et al. teach:

"wherein the centralized remote data stores the medical data in a directory representative

of the first data source" (see [0109], [0110], [0131, [0132] and [0139] wherein local image

workstation is equivalent to Applicant's "first data source", central data management system is

equivalent to Applicant's "remote data store", remote image viewing system is equivalent to

Applicant's "second data source", and the disclosure of transferring images of a patient to the

respective radiologist or referring physician as well as the ability to configure the patent image

database as disclosed implies that data must be transferred from a directory representative of first

data source at the remote data store as illustrated in Applicant's claim language).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

7.   Claims 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild

et al. (Publication No US 2002/0019751) and further in view of Byers et al. (US Patent No

5,488,702).

As to claim 37, Rothschild et al. teach:

"A method for restoring medical data to a data source from a remote data store" (see [0123]),

said method comprising:

"transferring a copy of said medical data from a remote data store to said data source"

(see [0128] and [0131] wherein "pull" functionality as disclosed allows to access and transfer

records from the central data management system to the local image workstation or the remote

image viewing system, wherein central data management system is equivalent to Applicant's

"remote data store", and local image workstation/remote image viewing system is equivalent to

Applicant's "data source"; also see [0174]); and

"restoring said medical data by replacing said medical data at said data source with said

copy of said medical data" (see [0123] for a restore solution which implies the restoring as

illustrated in Applicant's claim language).

Rothschild et al. do not teach "detecting an error in accessed medical data".

Byers et al. teach "detecting an error in accessed medical data" (see [column 9, lines 55-

67].

It would have been obvious to a person having ordinary skill in the art at the time the

invention was made to have modified Rothschild et al. by the teaching of Byers et al., since

detecting an error in accessed medical data would enable the disclosed method to be more

reliable and effective because it assures the accuracy of accessed data.

As to claim 38, this claim is rejected based on arguments given above for rejected claim

37 and is similarly rejected including the following:

Rothschild et al. as modified teach:

"step of obtaining said medical data at said data source and storing said medical data at

said remote data store" (see Rothschild et al., [0109] and [0110], wherein local image

workstation is equivalent to Applicant's "data source, central data management system is

equivalent to Applicant's "remote data store", and the disclosure of electronic record received

from local image workstation and storing at central data management system is equivalent to

Applicant's claim language).

As to claim 39, this claim is rejected based on arguments given above for rejected claim 37 and is similarly rejected including the following:

Rothschild et al. as modified teach:

"step of copying said medical data to a second data source" (see Rothschild et al., [0110] and [0174], wherein remote image viewing system is equivalent to Applicant's "second data source", and the disclosure of electronic record transferred to and stored on the remote image viewing system is equivalent to Applicant's claim language).

As to claim 40, this claim is rejected based on arguments given above for rejected claim 37 and is similarly rejected including the following:

Rothschild et al. as modified teach:

"wherein said transferring step further comprises verifying said transferring of medical data from said remote data store to said data source" (see [0178] wherein information about transmission and receipt is equivalent to Applicant's "verifying said transferring of medical data..."; also see [0177] and [0192]).

As to claim 41, this claim is rejected based on arguments given above for rejected claim 37 and is similarly rejected including the following:

Rothschild et al. as modified teach:

"step of authenticating access to said remote data store" (see [0110] and [0131] wherein central data management system is equivalent to Applicant's "remote data store" and the

disclosure of secure data access by authorized individuals is equivalent to Applicant's

"authenticating access").

As to claim 42, this claim is rejected based on arguments given above for rejected claim

37 and is similarly rejected including the following:

Rothschild et al. as modified teach:

"wherein said transferring step further comprises transferring said medical data from a

directory representative of said data source at said remote data store to said data source" (see

Rothschild et al., see [0109], [0110], [0131, [0132] and [0139] wherein local image workstation

is equivalent to Applicant's "data source", central data management system is equivalent to

Applicant's "remote data store, and the disclosure of transferring images of a patient to the

respective radiologist or referring physician as well as the ability to configure the patent image

database as disclosed implies that data must be transferred from a directory representative of data

source at the remote data store as illustrated in Applicant's claim language).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong-Thao Cao whose telephone number is (571) 272-2735. The examiner can normally be reached on 8:30 AM - 5:00 PM (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTC

January 11, 2006

Primary Examiner
Art Unit 2167